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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,308	03/18/2004	Patricia J. Horst	502611-CIP	5768
53609 7590 11/30/2007 REINHART BOERNER VAN DEUREN P.C. 2215 PERRYGREEN WAY ROCKFORD, IL 61107			EXAMINER MENEZES, MARCUS	
			ART UNIT 3677	PAPER NUMBER
			NOTIFICATION DATE 11/30/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RockMail@reinhartlaw.com

Office Action Summary	Application No. 10/803,308	Applicant(s) HORST ET AL.	
	Examiner Marcus Menezes	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,5,6,9,11,13,14,30-35,37 and 38 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,7,8,10,12,15,16,18,21-29,36,39 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,5,6,9,11,13,14,30-35,37 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

The request filed on November 16, 2007 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added. An action on the RCE follows.

Claim Objections

Claim 32 is objected to because of the following informalities: it appears with the preamble that this claim is claiming a subcombination of the apparatus. Examiner will assume said subcombination is claimed, however clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3,9,11,30-35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Carr (US 1,731,704).

Regarding claims 3, 30 and 35, Carr discloses an apparatus for securing a movable floor covering to an underlying floor covering, the apparatus comprising a substantially flat and planar central base member (B) capable of being placed between

the movable floor covering (also known as a rug) (1) and the underlying floor covering (also known as a carpet) (2); the central base member having an upper surface thereof capable of engaging the movable floor covering, and a lower surface thereof having a lone downwardly extending threaded spike that is capable of passing completely through a layer of pile and threadably engaging the backing of the underlying floor covering for securing and fixedly attaching the apparatus to the underlying floor covering as the central base member of the apparatus is rotated to screw the threaded spike through the backing. Further disclosed, as shown in Figure 5, is that the central base member (also known as body for claim 35) (2) has a height which is less than the central base member's lateral extension.

Regarding claim 9, Carr further discloses that the single downwardly extending threaded spike is capable of penetrating completely through the backing of the underlying substrate.

Regarding claim 11, Carr further discloses that the backing of the underlying substrate defines a lower surface thereof, and the single downwardly extending threaded spike includes a thread on an outer surface thereof capable of engaging the lower surface of the backing on the underlying substrate.

Regarding claim 31, Carr further discloses that the downwardly extending threaded spike includes a helical thread on an outer surface thereof capable of engaging the lower surface of the backing of the carpet.

Regarding claim 32, Carr further discloses that the downwardly extending threaded spike has a length thereof. Note, it has been held that a recitation with respect

to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Further note that the recitation of the backing of the carpet has not been given much patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause.

Regarding claims 33 and 34, Carr further discloses that the rounded sides of the central base member function as torque receiving elements capable of grasping and applying torque to the apparatus, to thereby facilitate threadably screwing the apparatus in to the backing of the carpet.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,6,13,14,37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carr in view of Cundall (GB 2,113,993).

Regarding claims 5,6,13,14,37 and 38 Carr discloses the invention, as disclosed above, but fails to disclose that the upper surface of the central base member includes

an adhesive for bonding a lower surface of the floor covering to the upper surface of the central base member.

Cundall teaches of a similar apparatus with an upper surface that includes an adhesive that is covered by a removable peel-able protective membrane.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included said adhesive and said protective membrane in Carr in view of Cundall in order to provide a manner that secures said apparatus to the underside of a rug or mat.

Response to Arguments

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcus Menezes
Examiner
Art Unit 3677

/MM/



ROBERT J. SANDY
PRIMARY EXAMINER